

3-16-01

Tom Blanton

Steve Aftergood

ED

WB is "Corporate disobedience
civil disobedience of
civil/corporate
attorney / rules / administrative
rules

(Is there now, and will there continue to be,
a need for more ODs? Is current declass process
adequate? Will it ever be, though, so ODs are
not needed?

China?

Aftergood: We have the most sensitive gov in world - in
terms of nos. of docs I generated by Age MIC
8 million and counts last year.

[Discussions in board-rooms of OSA ignores effect of global
juries calling journalists. J*

Aftergood: CIA is boldly violating law (FOIA), grossly,
showing effects of lack of monitoring authority.

Declass. process is dominated by political considerations;
when we can mount a campaign (VFR, Chile) we can
get declass; otherwise, not.

SA

There is a huge latent constituency out there that
opposes undue secrecy.

* There hasn't been g-j. investigations because
no drive to bring prosecutions - that could either
fail or lead to laws big 793... 798? formal unconstitutional
(now?)

3-16-01

[Do we have KSA on OSA? (793...)
(did we, in 1971, or before 1984 Morrison appeal?)

Should we have an OSA?

Do we need one (now! after CW?)

[Some people believe there is an OSA —
the threat to prosecute is credible,
is bilateral,
is about self interest

(though actual prosec is virtually unknown:
("What's your guess? > 100? since 1917
> 20? Espionage Act
> 10?
< 5?
answer: 2

- So, will it make a difference to 1) indict
2) hold grand jury (how many?)
3) try, convict, sentence, incarcerate
1

It will greatly affect court backlog,
by breaking "journalists' confidentiality" —
which will rely on journalists' willingness
to go to jail in a world where that
risk is very high (not, as now, unknown when
the only alleged crime is a leak/UD
(not, identity of a violent criminal, say).

NO journalist has ever gone to jail — or even
been questioned — for refusal to identify to a
grand jury the source of a UD/leak,
[see investigation of "leaks from S-J" 2) leaks from
has/special pros.]

Kate Mentin: ~~PH~~ NATO made a condition of joining NATO
for 3 countries, that they adopt State secrets
laws (!)

(Did they not have them?)

2) Does US?

3) Does any NATO country have a
CSA "stronger" than US? Which?

208

is US What's your order-of-magnitude guess on number of ~~independent observations~~ ^{independent observations} in the last century for these ^{phenomena}

"Unauthorized disclosure" ^(leak) (to media, US public, copies) of "state secrets"/classified data?

100 - 1000 ?

$$10 - 100?$$
 $1 - 10^?$

2

2

• 1971 - there was an unprecedented (?)

grand jing investigating dist. of PP - no base.
no incentive

[Was there a good job - in LA? - on you?

Russo - yes. Yes: Nixon: PBE, being, Cereol--.

who else?

above Boston Harbor for records ?!

Note: US Attorney in CA refused to sign
warrant of me. [WHY?]

Patrice McDermott:

Right-to-know initiative wrt health and environmental issues

{ Need to - tell ; obligation to reveal

obligation to authorize issuance,

so far

Med-PP: after leaving office: Clifford? Laurie? N? me N/A/KK
reson

me N/HAK

[All of N's great arguments against what
of PP add to his desired revelations
(also exposing Dems!)

// except that "Puro moves" — i.e. Public
// shall know what helps Puro, nothing else."

Who should decide?

Not any Puro and his appointees/subordinates!
as Nixon (as me).

Recognize ^{that} passage of OSA (with unilateral
of veto!) — and for "last-minute, unforeseen" veto —
was a procedural and substantive failure
of "open access committee"

Need for review, critique lesson. Learning,
maybe personnel changes: and ^{with} organizing/strategizing
now.

(Kudos for veto is like Lygia of Honor of
Nixon's Inspector General (1828).

John Podesta 3-16-01 Fernald Forum

Prof. Harold Cross, host - '50's:

"The right to speak, and the right to print,
without the right to know, are but hollow rights."

series of FOIA.

Sen. Bradley: "It's hard to remember that the FOIA is a piece of legislation, not part of the Constitution."

"The effectiveness of the FOIA is to be measured by
Foreign policy mistakes measured, not to be repeated..."
(Health and Environment League...)

declared of 800M ~~other~~ pages declared for historical purposes. (more to come).

188 M in previous 15 years

Nov. 4 2000 C intend OSA.

"It is beyond dispute that some info must be closely held

[Is crim action?]

It is by and large ^{that} UD can be extraordinarily harmful [e.g., ...? exchange?]
 " " " " * "For two many UD's occur" [NO!] "Guy Beh"

has struggled against inadequate laws.. (?)

Civilized must protect right of citizens to ...

11 Discourage gov officials from briefing, making public statements... (Abt. See Cook to Justice...)

→ former gov officials from Tracy, Tolly, writing
memoirs ... (NA!) subject them to Pres.! and eval the
efforts to inform

Re rejected advice of most Nat. sec. officials
(except Sen. Buger) to sign OSA —

"Not proper balance between and to protect
secrets and "public's and to know"

[NA: "officials used to sell their secrets" and to support Adm. Rabier] (and

EW

(and reducing risks of
obstacles to our spying)

// We must be alert to attempts to use degree of espionage
JP as excuse for narrowing rights of an citizen to know,
I can almost guarantee you that the vetoed OSA
will reappear
in the guise of addressing the problems of
the Abner case.

Stewart opinion in PP case... " "

PD - only the pushing of (NGOs) none of the
openness progress would have been advanced,
from within.

The Exe Order 12958, (into), etc.
defended critically on

[What helped veto OSA, it appears, was fear
that it would inhibit or punish
"OK" leaks, desired leaks (whether or not
"authorized" at highest levels)
by officials and former officials

jeopardy
of officials,
historians,
journalists
lack of hearings ^{on OSA} was partly Admin problem, shared
with Congress
(and failure of NGO's!)

on OSA

Pat Murray: Two intell committees were concerned about flood of intell info getting into press.

House Com - concluded it was almost impossible to craft legis that would stop flood and pass muster with further (and "const. muster"):

It got some determined effort, but prosecutors couldn't enforce it of press. - because it would be ridiculed

House thought Senate bill

In fall, according to Senate, "President had seen light of day" and was working

and OMB

So, with a statement of support from W&H, "we can't" reluctantly oppose Senate language.

Efforts in Conf Committee to limit the bill that went to Pres

Then, to our surprise, and chagrin of Senate,

info that could lead to deaths... disruption of (minut, ongoing) mil ops, intell processes, should not pick its way to public

in the time when disclosure could have these effects

Think info is "single source," quickly identifiable (of "enemy"):

"I'm not aware of any administrative sanctions being applied to [Leaker] in the past decade [so why would ~~the~~ criminal sanctions be more effective?]" "and the only person persecuted for leak was just pardoned."

Can "right/brand" of journalists to "protect the sources and methods"

Answer: We protect our "single-sources" - responsibly - of form of reporting.

The sensitive detail that could identify source is not reported.

S.A.: "What is the great danger done by books?"

One reporter on World Press is critical: "big move came to check with Dept - to omit sensitive details..."

[

Are books useful?

[trans - control !

CIA Council: loss of intell system exposes NATO forces to increased risks.

Are books useful? Yes - "the authorized background" is valuable. The statute as with mind call the authorized background." (PEAH.)

out CIA council

"Need is to distinguish between the authorized book and the unauthorized book."

"You'll see in the NYT a story from 'sources close to the Pres,' and next to it a story saying 'Pentagon insiders say the new fighter is not performing up to snuff, has cost-overruns, is big crowd up...'"

Osprey!
rest of
SDI!

"One is a crime, the other is not."

(?) Is it? which is more important, helpful?

OSA

The problem is not "mindless, excessive, wasteful, costly" secrecy

→ (about info whose release could
"do no harm to nat. sec."
Not "secrecy not necessary to nat. sec."

problem is: secrecy that does do harm
to democracy, living, law, nat. sec., , ,

Purpose of declass. is not to "journal and
secrets better

[It will have no effect on that - e.g. SCI]

Leaks can + do cause loss of spying
means, intell — and that can be costly,
and harmful

but both costs, + benefits foregone,
are easy to exaggerate

along with whole benefit of not necessary
for intell process (in peacetime!)

on wot needs — compared to arms control,
diplomacy, conflict resolution!

Shared files
secrecy
71

In Aug 71, 150 M of WWII docs
still secret: (In 74, N said he had declassified
50M pages since '72.)

However, few tens IM of DOD's 20M ^{secret} docs
deserve to be kept secret.

The "over-class" 'abuse' of class. does
not breed the kind of "contempt" for the
system that encourages an adverse want
of appropriate, necessary violation of rules;
bonds;

people don't bother to break something simply
because it's "over-classified" ...
or, "careless" ...

Standards for "what is properly classified" TS are
way too low - esp. when TS is easily withheld
from Congress (see Peters, WP ~~1972~~ 1972
referring to Daniel Young! at 216)

wrt deployment of missiles in foreign countries
from S to TS
69 70

"TS - not for Congress" i

"too sensitive to be held in safe of SFRC!
see SCIT!

from 1942 to 1962, 760M pages classified.

²⁴
~~2~~ M for. pol. does since 1950

L '72 160M ^{hp} from WWII
500M 1964-54

(But now: 1-8 B > 25 years old, i.e. before 1976
next 23 years, am 1B? what "slowing"?

[Dial VS "declass of by crisis" have
much effect, or any? C-I, C-II, Dia,
Kebner, Kona?

Dial reduction in "classifying officers"
and nos. of clearances have an effect?
(see DERIVATIVE CLASS)

Byhamelt (!)

vs. pros. of Radford:

"law is defective - have to show intent"

[will not ~~TS~~ I was indicted for -

the "OSA" is 793 by Justice's view

(Kate Martin)

Pat _____

on OSA Then will be hearings.

or series — at least 3 of other countries;
can't speak for judiciary, or —

Senate is still in place

"Entirety of bill by ~~the~~ C/A is over-stated;
it was brought along by pressure from Senate,
as was Justice (!)..."

[How about seeing for purpose of
enlarging

Roberts: "If our newspaper articles classified?"

Podesta: A narrow

I don't disprove

I don't prove that someone is working "properly disloyal"

"You're not going to narrow the universe of
leads to the one person you can prove
beyond a reasonable doubt"

To do that, you have to watch/follow jointly —
which will cover sources for many other people
who have nothing to do with this item

Anti sanctions are most effective
(as well for "beyond reasonable doubt")

Porter Ross R. Chairman - ex - CIA DO - my replace
Trent

Patric Munnay, Counsel of House Intell Com

Nancy Thompson + Stanley
Rightline on

PP & OSA

3-22-01

Talk to ed boards

(who to set up? Kelly?)

Op-eds: Outlook, NYT, ...

Tom Bettig

Exec Producer

(Sonya, asst.)

John Donovan

reporter for Rightline

Slate (Jodi Allen)

(Lola)

and to Nancy)

Oct 5, 98 M-Jane

not just, "unnecessary"
"excessive"

Need for: discrimination for wrongful

"over-class"

withholding info (secretary
"privilege")

and lying / perjury